

ted from the daily edition of the Record, was inserted in the Journal and in the permanent Record at the request of the Parliamentarian based upon the rationale stated in §2.22, *infra*, showing that an adjournment of the House in the absence of a quorum does not justify deletion of those proceedings from the Journal and Record.

§2. Calls Ordered on Motions; Automatic Calls

The rules of the House authorize two calls of the House, the call on motion and the automatic call, to ascertain the presence of a quorum. Prior to the 95th Congress, the call ordered on motion⁽¹³⁾ was in order in the absence of a quorum whether or not a pending question was being put to a vote. Under this former procedure, a Member rose and made the point of order that a quorum was not present. The Speaker, after noting the point of order, counted the House and announced whether a quorum was present. If not, any Member could move a call of the House. Under current procedure (beginning in the 95th Congress) a point of order of no

quorum may not be entertained unless the pending question has been put to a vote, but the Speaker may, in his discretion, recognize for a motion for a call of the House at any time.⁽¹⁴⁾ Fifteen Members including the Speaker voting in the affirmative are authorized to compel the attendance of absentees.⁽¹⁵⁾ But because a call must be ordered by a vote of a majority of those present, a minority of 15 favoring a call on such vote will not suffice.⁽¹⁾

If a majority votes to compel attendance absentees are notified. Warrants may be issued by order of a majority of those present, and those for whom no sufficient excuse is made may be arrested by officers appointed by the Sergeant at Arms; absentees' attendance is secured and retained until they are discharged by the House. Members who appear voluntarily are immediately admitted to the Hall of the House and report their names to the Clerk to be entered upon the Journal as present. Until the 96th Congress, the appearance of a sufficient number to

13. Rule XV clause 2(a), *House Rules and Manual* §768 (1979).

14. Rule XV clause 6(e), *House Rules and Manual* §774(c) (1979).

15. Rule XV clause 2(a), *House Rules and Manual* §768 (1979).

1. See annotation to Rule XV clause 2(a), *House Rules and Manual* §769 (1979); and 4 Hinds' Precedents §2984

make a quorum did not automatically terminate proceedings incident to the call such as closing the doors (which was the practice until the 92d Congress), completing the call of the roll, noting absentees, and arresting and retaining absentees; these activities continue upon order of a majority of those present until the House either by unanimous consent or motion agrees to dispense with further proceedings under the call.⁽²⁾ After agreeing, the House resumes its business.

When a call of the House on motion is ordered, the Speaker, subject to the provision relating to recording votes by electronic device,⁽³⁾ or in lieu of a call of the roll under Rule XV clause 1, is au-

thorized by Rule XV clause 2(b)⁽⁴⁾ to appoint one or more clerks to tell the names of Members who are present.

The other call of the House, the automatic call,⁽⁵⁾ ensues when a quorum fails to vote on any question which requires a quorum,⁽⁶⁾ a quorum is not present, and objection is made for that reason,⁽⁷⁾ unless the House adjourns. Following announcement of a vote,⁽⁸⁾

2. See 9, *infra*, for a discussion of the motion to dispense with further proceedings under the call. In the 96th Congress, clause 6(e)(2) was amended to provide that proceedings be automatically dispensed with unless the Speaker in his discretion recognizes for a motion to dispense. Until the 93d Congress, Rule XV clause 2 required that the doors be closed on any call of the House, but on Oct. 13, 1972, that clause was amended (H. Res. 1123, 92d Cong. 2d Sess., 118 CONG. REC. 36012) to require that the doors would be closed only by order of the Speaker, effective at the end of the 92d Congress. See §6, *infra*.

3. Rule XV clause 5, *House Rules and Manual* §774b (1979).

4. *House Rules and Manual* §771b (1979).

5. Rule XV clause 4, *House Rules and Manual* §773 (1979).

6. See annotation to Rule XV clause 4, *House Rules and Manual* §773 (1979). The automatic call does not apply to questions which do not require a quorum, such as an affirmative vote on a motion to adjourn (95 CONG. REC. 10092, 81st Cong. 1st Sess., July 25, 1949), a motion incidental to a call of the House which may be agreed to by less than a quorum (4 Hinds' Precedents §§2994, 3029; 6 Cannon's Precedents §681) or a call when no question is pending (4 Hinds' Precedents §2990). A point of no quorum on a negative vote of adjournment, if sustained, precipitates an automatic call (6 Cannon's Precedents §700).

7. Following failure of a quorum to appear on a yea and nay vote, the Speaker may take cognizance of that fact and order an automatic call of the House despite absence of a point of order from the floor (6 Cannon's Precedents §§678, 679).

8. The automatic roll call applies whether the question on which the

the Speaker, hearing a point of no quorum from the floor, or on his own initiative, declares the absence of a quorum, orders the Doorkeeper to close the doors (a practice discontinued in the 92d Congress by addition of clause 2(b), Rule XV, on Oct. 13, 1972) and the Sergeant at Arms to bring in absent Members, and states that those in favor should vote "aye" and those opposed "no." Under this procedure, as distinguished from the call on motion where an order of a majority of those present is needed, the Speaker without floor action possesses the authority to issue a warrant⁽⁹⁾ permitting the Sergeant at Arms, without separate motion, forthwith to bring in absentees, but the Speaker usually does not do so without action of the House. (See §5.10, *infra*.) The yeas and nays on the pending question are considered ordered. Unless the vote is taken by electronic device, the Clerk calls the roll and each Member as his name

is called may vote on the pending question. Members brought in by the Sergeant at Arms are noted as present, immediately discharged from arrest, and given an opportunity to vote. The Speaker is authorized to declare that a quorum is constituted if those voting on the question together with those who are present and decline to vote make a majority of the House. Such a declaration dispenses with further proceedings. The pending question is decided by the majority vote of those who appear if a quorum responds. Proceedings under the automatic call are vacated if the House adjourns any time after completion of a roll call before a quorum responds and the result is announced.⁽¹⁰⁾

The provision which authorizes automatic calls of the House is subject to Rule XV clause 5,⁽¹¹⁾ which permits the Speaker, unless he orders the calling of names in a manner authorized by the other sections of Rule XV, to order names to be called by electronic device.⁽¹²⁾

The automatic vote by yeas and nays is not in order in the Committee of the Whole.⁽¹³⁾

House is dividing is decided by a viva voce vote (6 Cannon's Precedents §697), division (6 Cannon's Precedents §691), tellers (4 Hinds' Precedents §3053), or yeas and nays (6 Cannon's Precedents §703).

9. See Rule XV clause 4, *House Rules and Manual* §§773, 774a (1979); 4 Hinds' Precedents §3043; and 6 Cannon's Precedents §702.

10. Rule XV clause 4, *House Rules and Manual* §773 (1979).

11. *House Rules and Manual* §774b (1979).

12. See §4, *infra*; and Ch. 30, *infra*, for discussions of electronic voting.

13. See annotation to Rule XV clause 4, *House Rules and Manual* §774a (1979); and §2.7, *infra*.

Amendments to the rules affecting procedures subsequent to the 94th Congress under calls of the House and under automatic yeas and nays votes will be discussed in greater detail in supplements to this edition as they appear.

Presumption as to Presence of Quorum

§ 2.1 In the House of Representatives a quorum is presumed always to be present unless a point of no quorum is made.

On July 18, 1949,⁽¹⁴⁾ Speaker Sam Rayburn, of Texas, made a statement regarding presumption of a quorum.

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. HOFFMAN of Michigan: Mr. Speaker, it is my understanding this is Consent Calendar day. In view of the recent Supreme Court decision in the *Christoffel* case,⁽¹⁵⁾ which held affirmatively that unless a quorum is present the committees of the House and the House are not legal tribunals, would the House now be competent to con-

sider bills on the Consent Calendar, it being apparent a quorum is not present?

THE SPEAKER: The gentleman knows, of course, that unless a point of no quorum is made, it is presumed that a quorum is always present.

Obligation to Respond

§ 2.2 Permission of the House for a committee to sit during the sessions of the House does not relieve Members from their obligation to respond on roll calls.

On Aug. 5, 1937,⁽¹⁶⁾ Speaker William B. Bankhead, of Alabama, made a ruling regarding Members' obligation to respond to quorum roll calls.

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: Does the gentleman from Indiana yield to permit the gentleman from New York to submit a parliamentary inquiry?

MR. [ARTHUR H.] GREENWOOD [of Indiana]: I yield.

MR. FISH: Mr. Speaker, when permission is given to a committee to sit during the sessions of the House, does that give any rights to any of the members of that committee on roll calls?

THE SPEAKER: Absolutely none.

MR. FISH: Not even on quorum roll calls?

THE SPEAKER: It does not. On all quorum roll calls all Members who de-

14. 95 CONG. REC. 9654, 81st Cong. 1st Sess.

15. *Christoffel v United States*, 338 U.S. 84 (1949). See §17, *infra*, for a discussion of this case.

16. 81 CONG. REC. 8300, 75th Cong. 1st Sess.

sire to be recorded must appear and vote on the roll call.

Ascertaining Quorum Upon Convening

§ 2.3 Ascertaining the presence of a quorum is the first order of business when the House convenes following a sine die adjournment.

On Jan. 7, 1964,⁽¹⁷⁾ Speaker John W. McCormack, of Massachusetts, ascertained the presence of a quorum immediately after the prayer.

This being the day fixed by Public Law 247, 88th Congress, enacted pursuant to the 20th amendment to the Constitution, for the meeting of the 2d session of the 88th Congress, the Members of the House of Representatives of the 88th Congress met in their Hall, and at 12 o'clock noon were called to order by the Speaker, the Honorable John W. McCormack, a Representative from the State of Massachusetts.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the . . . prayer: . . .

CALL OF THE HOUSE

THE SPEAKER: The Clerk will call the roll to ascertain the presence of a quorum. . . .

THE SPEAKER: On this rollcall 342 Members have answered to their names. A quorum is present.

17. 110 CONG. REC. 4, 5, 88th Cong. 2d Sess.

Postponement of Roll Calls

§ 2.4 Any roll calls which might be requested [except on resolutions from the Committee on Rules] were, by unanimous consent, ordered postponed until the following Tuesday [six calendar days from the date of the request].

On May 27, 1959,⁽¹⁸⁾ roll calls were ordered postponed by unanimous consent.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask unanimous consent that any rollcall votes, except on rules which may be requested tomorrow or Monday, be put over until Tuesday next.

THE SPEAKER PRO TEMPORE:⁽¹⁹⁾ Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Presence of Members in Well During Roll Call

§ 2.5 The Speaker has ordered Members from the well of the House during a roll call.

On Oct. 12, 1962,⁽²⁰⁾ Speaker John W. McCormack, of Massachusetts, responding to a demand

18. 105 CONG. REC. 9202, 86th Cong. 1st Sess.

19. John W. McCormack (Mass.).

20. 108 CONG. REC. 23423, 23424, 23432-34, 87th Cong. 2d Sess.

from a Member, H. R. Gross, of Iowa, ordered the well cleared.

MR. [CLARENCE] CANNON [of Missouri]: I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The Chair will count.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were yeas 84, nays 120, not voting 230, as follows. . . .

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the regular order.

THE SPEAKER: The regular order is proceeding.

MR. GROSS (interrupting the rollcall): Mr. Speaker, I demand the well be cleared.

THE SPEAKER: Members will take their places out of the well. . . .

The Clerk resumed calling the roll.⁽¹⁾

1. *Parliamentarian's Note*: Members may not remain near the Clerk's desk (including the well) during a roll call vote. Rule XIV clause 7, *House Rules and Manual* §763 (1979).

Rule I clause 3 [*House Rules and Manual* §623 (1979)], authorizes the Speaker to exercise general control of the Hall of the House.

Speaker's Authority to Move a Call

§ 2.6 On a day on which the Speaker pro tempore was in the Chair when a point of no quorum was made, the Speaker moved a call of the House.

On June 3, 1960,⁽²⁾ while Speaker pro tempore Francis E. Walter, of Pennsylvania, was in the Chair, Speaker Sam Rayburn, of Texas, moved a call of the House from the floor.

CALL OF THE HOUSE

MR. [CLARE E.] HOFFMAN of Michigan: Mr. Speaker, I make the point of order that a quorum is not present.

MR. [CHET] HOLIFIELD [of California]: I hope the gentleman will withhold his point of order for a minute.

. . .

THE SPEAKER PRO TEMPORE: The Chair will count. Evidently a quorum is not present.

MR. [SAM] RAYBURN [of Texas]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names: . . .

Automatic Yeas and Nays in Committee of the Whole

§ 2.7 The provisions of Rule XV clause 4,⁽³⁾ which permit a

2. 106 CONG. REC. 11830, 86th Cong. 2d Sess.
3. *House Rules and Manual* 773 (1979).

Member to object to a vote where a quorum is not present, are applicable only in the House; an “automatic roll call” is not in order in the Committee of the Whole.

On Nov. 9, 1971,⁽⁴⁾ during consideration of H.R. 10729, to amend the Federal Insecticide, Fungicide, and Rodenticide Act, Chairman William L. Hungate, of Missouri, ruled that an objection to a vote on the ground that a quorum was not present, under Rule XV clause 4, was not in order in the Committee of the Whole.⁽⁵⁾

The question was taken; and on a division (demanded by Mr. Evans of Colorado) there were—ayes 28, noes 65.

So the amendment to the substitute amendment was rejected.

MR. [FRANK E.] EVANS of Colorado: Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE CHAIRMAN: That parliamentary procedure is not in order in Committee of the Whole.

Motions for a Call of the House

§ 2.8 A motion for a call of the House does not require a quorum.

4. 117 CONG. REC. 40054, 92d Cong. 1st Sess.
5. See also, for example, 116 CONG. REC. 42232, 42233, 91st Cong. 2d Sess., Dec. 17, 1970.

On June 5, 1946,⁽⁶⁾ Speaker Sam Rayburn, of Texas, made a ruling regarding the need for a quorum on a motion for a call of the House under Rule XV clause 2.⁽⁷⁾

THE SPEAKER (after counting): Two hundred and ten Members are present, not a quorum.

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I move a call of the House.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

THE SPEAKER: The question is on the motion for a call of the House.

The question was taken; and on a division (demanded by Mr. Rankin) there were—ayes 81, noes 13.

MR. SMITH of Virginia: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: A quorum is not required in this instance.

So the motion was agreed to.

§ 2.9 Prior to adoption of the rules, whenever the absence of a quorum is ascertained, a motion for a call of the House is in order, the doors remain open while the roll is

6. 92 CONG. REC. 6352–56, 79th Cong 2d Sess.
7. See also 108 CONG. REC. 10389, 87th Cong. 2d Sess., June 13, 1962, for another illustration of this principle.

called alphabetically and, following the establishment of a quorum after the second call, further proceedings under the call may be dispensed with by unanimous consent [or by motion].

On Jan. 21, 1971,⁽⁸⁾ during reading of a resolution adopting the rules, a motion for a call of the House was held to be in order.

THE SPEAKER:⁽⁹⁾ The Chair recognizes the gentleman from Mississippi.

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Speaker, I offer a resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-first Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, and the Legislative Reorganization Act of 1970, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-second Congress, with the following amendments as part thereof, to wit:

In Rule X, renumber clause 4 and 5 as 5 and 6, insert a new clause 3 as follows: . . .

CALL OF THE HOUSE

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, I think this is of

8. 117 CONG. REC. 13, 14, 92d Cong. 1st Sess.

9. Carl Albert (Okla.).

more than passing importance. The Members should hear this and, therefore, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names: . . .

THE SPEAKER: On this roll call 395 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with. . . .

RULES OF THE HOUSE

THE SPEAKER: The Clerk will proceed with the reading of the resolution.

The Clerk read as follows:

In Rule XI, strike out paragraph (a) of clause 27 and insert in lieu thereof the following:

"(a) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees and subcommittees."

§ 2.10 Parliamentarian's Note: An automatic call of the House does not result when less than a quorum votes on a motion ordering a call of the House, because under Rule XV clause 2(a)⁽¹⁰⁾ [and

10. *House Rules and Manual* §768 (1979).

art. I, §5 of the Constitution]⁽¹¹⁾ **less than a quorum can compel the attendance of absent Members.**

This principle may be illustrated by analogy to the following proceedings, which took place on June 13, 1962:⁽¹²⁾

CALL OF THE HOUSE

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER:⁽¹³⁾ Evidently a quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion.

The question was taken; and the Speaker announced that the ayes appeared to have it.

MR. GROSS: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will state that this motion does not require the presence of a quorum.

Prerogatives of the Chair

§ 2.11 Where a motion for a call of the House is pending

11. *House Rules and Manual* § 52 (1979).

12. 108 CONG. REC. 10389, 87th Cong. 2d Sess.

13. John W. McCormack (Mass.).

and an objection is made to ordering the call by unanimous consent, the Speaker immediately puts the question on the motion.

On June 13, 1962,⁽¹⁴⁾ Speaker John W. McCormack, of Massachusetts, put to a vote a motion for a call of the House.

CALL OF THE HOUSE

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: Evidently a quorum is not present.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move a call of the House.

THE SPEAKER: Without objection, a call of the House is ordered.

MR. GROSS: Mr. Speaker, I object.

THE SPEAKER: The question is on the motion.

The question was taken; and the Speaker announced that the ayes appeared to have it.

§ 2.12 Where a point of order that a quorum was not present came too late to invoke an “automatic roll call” under Rule XV clause 4,⁽¹⁾ the Chair treated the objection as a point of order that a quorum was not present and

14. 108 CONG. REC. 10389, 87th Cong. 2d Sess.

1. *House Rules and Manual* § 773 (1979).

entertained a motion for a call of the House under Rule XV clause 2(a).⁽²⁾

On May 31, 1972,⁽³⁾ Speaker pro tempore Hale Boggs, of Louisiana, following proceedings whereby a motion to reconsider a vote was laid on the table, entertained a motion for a call of the House.

MR. [RICHARD] BOLLING [of Missouri]: Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MR. [SAMUEL L.] DEVINE [of Ohio]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

MR. BOLLING: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk proceeded to call the roll.

MR. DEVINE (during the call of the roll): Mr. Speaker, a point of order. Is this not an automatic rollcall on the rule?

THE SPEAKER PRO TEMPORE: The gentleman is incorrect. It is a quorum call.

MR. [DURWARD G.] HALL [of Missouri]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HALL: Is it not true that the gentleman from Ohio objected to the vote on the ground that a quorum was not present and made a point of order that a quorum was not present, whereupon the Chair said that the rollcall was automatic?

THE SPEAKER PRO TEMPORE: The Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider was laid on the table. Therefore, the Chair had no alternative except to rule on the point of order that a quorum was not present and order a quorum call, in view of the fact that the gentleman's objection to the vote came too late.

MR. DEVINE: Mr. Speaker, I was on my feet at the time the Chair made the statement that the question was on the resolution, and I raised the objection to the vote on the ground that a quorum was not present and made the point of order that a quorum was not present.

THE SPEAKER PRO TEMPORE: The Chair was advised by the Parliamentarian that the Chair had previously ruled that the resolution had been agreed to and that a motion to reconsider had been laid on the table. The Chair had no alternative but to observe the gentleman's point of order that a quorum was not present, and a quorum call is now underway. The Clerk will continue to call the roll.

§ 2.13 The Speaker may refuse to entertain a point of no quorum if an immediately preceding roll call vote has disclosed a quorum to be present and no business has intervened.

2. *House Rules and Manual* § 768 (1979).

3. 118 CONG. REC. 19344, 92d Cong. 2d Sess.

On Apr. 14, 1937,⁽⁴⁾ Speaker William B. Bankhead, of Alabama, overruled a point of no quorum.⁽⁵⁾

THE SPEAKER: Today is Calendar Wednesday. The Clerk will call the roll of committees.

AMENDMENT OF THE LONG-AND-SHORT-HAUL CLAUSE

MR. [CLARENCE F.] LEA [of California] (when the Committee on Interstate and Foreign Commerce was called): Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I call up the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C. title 49, sec. 4).

The Clerk read the title of the bill.

MR. [ALFRED L.] BULWINKLE [of North Carolina]: Mr. Speaker, I raise the question of consideration.

THE SPEAKER: The gentleman from North Carolina raises the question of consideration of the bill. The question is, Will the House consider the bill H.R. 1668.

The question was taken; and on a division (demanded by Mr. Lea) there were—ayes 152, noes 73.

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Speaker, I demand the yeas and nays.

4. 81 CONG. REC. 3455, 3456, 75th Cong. 1st Sess.

5. See also 95 CONG. REC. 10095–97, 81st Cong. 1st Sess., July 25, 1949; and §14, *infra*, which discuss points of no quorum when made to delay proceedings.

The yeas and nays were ordered.

THE SPEAKER: The question is, Will the House consider the bill (H.R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4)?

The question was taken; and there were—yeas 278, nays 97, answered “present” 1, not voting 54, as follows: . . .

The result of the vote was announced as above recorded.

THE SPEAKER: The House automatically resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the bill.

MR. [SCHUYLER OTIS] BLAND [of Virginia]: Mr. Speaker, I make the point of order there is not a quorum present.

THE SPEAKER: The Chair feels compelled to overrule the point of order, as the recent vote discloses a quorum is present.

§ 2.14 The Speaker may not declare a recess during a roll call before the result is announced, even though the House has, by unanimous consent, previously given him authority to declare a recess at any time for the remainder of the week.

On Oct. 12, 1962,⁽⁶⁾ Speaker John W. McCormack, of Massa-

6. 108 CONG. REC. 23433, 23434, 87th Cong. 2d Sess. The House agreed to a unanimous-consent request on Oct. 11, 1962, giving the Speaker the authority to declare recesses “at any

chusetts, refused to declare a recess while a roll call was in progress.

THE SPEAKER: Does the gentleman from Missouri yield time to any Member?

MR. [CLARENCE] CANNON [of Missouri]: No. I move the previous question.

THE SPEAKER: Without objection, the previous question is ordered.

The question is on the motion offered by the gentleman from Missouri [Mr. Cannon] to recede and concur in the Senate amendment with an amendment.

The question was taken, and the Speaker announced that the noes appeared to have it.

MR. CANNON: Mr. Speaker, I ask for the yeas and nays.

Mr. Speaker, I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: Does the gentleman object to the vote on the ground that a quorum is not present or ask for the yeas and nays?

Does the gentleman object to the vote?

MR. CANNON: I make the point of order that a quorum is not present and ask for the yeas and nays.

THE SPEAKER: The gentleman from Missouri makes the point of order that a quorum is not present and objects to the vote on the ground that a quorum is not present.

The Chair will count.

time" for the remainder of the week.
108 CONG. REC. 23207, 87th Cong.
2d Sess.

Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 84, nays 120, not voting 230, as follows: . . .

After completion of the first call of the roll and during the second call, several parliamentary inquiries were entertained, including the following:⁽⁷⁾

(The Clerk resumed calling the roll.)

MR. [EDMOND] EDMONDSON [of Oklahoma] (interrupting the rollcall): Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. EDMONDSON: May a recess be declared in advance of the completion of the vote?

THE SPEAKER: The Chair will state that in the present situation the Chair may not declare a recess with a rollcall in process.

MR. [CARL] ALBERT [of Oklahoma]: Mr. Speaker, I ask that the Chair announce the vote.

THE SPEAKER: On this vote, there were 84 yeas and 120 nays.

So a quorum is not present.

The motion was then made and agreed to that the House adjourn.

Interruption by Motions to Adjourn

§ 2.15 If a quorum fails to materialize on a yea and nay

7. *Id.* at p. 23434.

vote on a motion to adjourn decided in the negative, the House may proceed to establish a quorum under a call of the House which was in progress under Rule XV clause 2,⁽⁸⁾ when the motion to adjourn was made.

On Oct. 14, 1969,⁽⁹⁾ Speaker John W. McCormack, of Massachusetts, indicated the procedure to be followed after less than a quorum voted rejecting a motion to adjourn which had been entertained following failure of a quorum on a call of the House. (See § 10.2, *infra*.)

Proceedings Following Calls of the House

§ 2.16 Although a Member may not announce how an absent colleague would have voted on a roll call, there is no rule to prevent a Member from announcing the reasons for absence of his colleagues on a quorum call.

On Mar. 13, 1946,⁽¹⁰⁾ Speaker Sam Rayburn, of Texas, made a ruling regarding the announce-

ment of reasons for absence from quorum calls.⁽¹¹⁾

MR. [MILTON H.] WEST [of Texas]: Mr. Speaker, this afternoon, at about 1:30 o'clock, there was a quorum call, No. 53. Many members of the Texas delegation did not answer that quorum call by reason of the fact that at that time they were attending a luncheon given in honor of that great Texan and great American, Admiral Chester W. Nimitz, commander of the fleet. He was explaining to the delegation the needs of the future fleet of the United States. For that reason the following Members did not feel they should leave that meeting in order to answer a quorum call—

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I regret to raise the point, but the gentleman is not proceeding in order. I hope he will not start a procedure which will return to plague us in the future. All of us understand that no Member of the Texas delegation would fail to answer roll call unless he were fully warranted in being absent. . . .

THE SPEAKER:⁽¹²⁾ . . . The gentleman from Texas [Mr. West] asked

8. *House Rules and Manual* §768 (1979).

9. 115 CONG. REC. 30054-56, 91st Cong. 1st Sess.

10. 92 CONG. REC. A-1422, 79th Cong. 2d Sess.

11. This ruling contradicts many earlier rulings; see 6 Cannon's Precedents §200; 77 CONG. REC. 1139, 73d Cong. 1st Sess., Apr. 3, 1933; 77 CONG. REC. 2587, 73d Cong. 1st Sess., Apr. 28, 1933; 77 CONG. REC. 3834, 73d Cong. 1st Sess., May 20, 1933; 78 CONG. REC. 4691, 4700, 73d Cong. 2d Sess., Mar. 16, 1934; 81 CONG. REC. 3489, 3490, 75th Cong. 2d Sess., Apr. 14, 1937; and 81 CONG. REC. 3563, 75th Cong. 2d Sess., Apr. 15, 1937.

12. Sam Rayburn (Tex.).

unanimous consent to proceed for 1 minute. It is the understanding of the Chair that he did not intend to announce how any Member voted. He was simply stating why some Members of the Texas delegation did not answer a quorum call about 1 o'clock.

MR. CANNON of Missouri: I reluctantly raise the point of order. . . .

It would set a precedent for resuming an objectionable custom which has long since been discontinued.

THE SPEAKER: The Chair believes that the gentleman from Texas, being authorized by the Members whose names he is about to call, would be allowed to state why they were not on the floor to answer a roll call. The Chair knows of no rule of the House that is being violated by that.

MR. [JOSEPH W.] MARTIN [Jr.] of Massachusetts: Mr. Speaker, I ask unanimous consent that the gentleman from Texas may proceed for one additional minute.

MR. CANNON of Missouri: Mr. Speaker, I regret to object. . . .

THE SPEAKER: The gentleman from Missouri objects. The time of the gentleman from Texas has expired. . . .

MR. [OREN] HARRIS [of Arkansas]: Mr. Speaker, I ask unanimous consent that the gentleman may be permitted to extend his remarks in the Record.

MR. CANNON of Missouri: I make the point of order that a quorum is not present.

THE SPEAKER: It is very necessary that some reports from the Committee on Rules be filed this afternoon.

MR. CANNON of Missouri: Mr. Speaker, I withhold the point of order.

§ 2.17 Where a quorum fails to develop on an automatic roll

call under Rule XV clause 4,⁽¹³⁾ the Chair need not announce the result of the vote other than to inform the House that a quorum has not been developed since under that rule the Chair may entertain a motion to adjourn "at any time after the roll call has been completed."

On Dec. 22, 1932,⁽¹⁴⁾ Speaker John N. Garner, of Texas, made a statement regarding announcement of the vote on an automatic roll call on a pending motion to recommit.

MR. [OSCAR] DE PRIEST [of Illinois]: Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

THE SPEAKER: Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll. . . .

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, may we have the vote announced?

THE SPEAKER: It has developed there is not a quorum present.

MR. SNELL: Mr. Speaker, what was the vote?

THE SPEAKER: It is not necessary to give that out, so the Parliamentarian

13. *House Rules and Manual* §773 (1979).

14. 76 CONG. REC. 942, 943, 72d Cong. 2d Sess.

informs the Chair, but the Chair may announce that so far the vote is—yeas 110, nays 95. There is not a quorum present.

The gentleman from Illinois moves that the House do now adjourn.

Failure of Quorum to Vote

§ 2.18 Instance where immediately after the Speaker counted a quorum, a quorum failed to vote, by a division vote, on an amendment. In response to a point of order, the Speaker ruled that he observed that a quorum remained present when the vote was taken and the Chair was not responsible if all Members did not vote.

On Apr. 2, 1943,⁽¹⁵⁾ during consideration of H.R. 2087, the War Security Act, Speaker Sam Rayburn, of Texas, held that a quorum was present.

THE SPEAKER: The Chair will count. [After counting.] Two hundred and nineteen Members are present, a quorum.

The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 62, noes 112.

MR. [HARRY] SAUTHOFF [of Wisconsin]: Mr. Speaker, I object to the

vote on the ground that a quorum is not present.

THE SPEAKER: The Chair has just counted, and a quorum was present. The Chair is not responsible if all Members in the House do not vote. The Chair must hold that a quorum is present.

So the amendment was rejected.

Parliamentarian's Note: The fact that a quorum does not vote on an amendment does not necessarily indicate that a quorum is not present.

Instructions to Sergeant at Arms

§ 2.19 Where a quorum fails to appear on a call of the House, a motion to instruct the Sergeant at Arms to bring in absentees is in order.

On Oct. 14, 1969⁽¹⁶⁾ Speaker John W. McCormack, of Massachusetts, responded to a parliamentary inquiry on the propriety, in the absence of a quorum, of sending the Sergeant at Arms to bring in absent Members.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, a parliamentary inquiry.

Mr. Speaker, would it be in order at that point to move that the Speaker instruct the Sergeant at Arms to bring in Members who are absent?

15. 89 CONG. REC. 2886, 78th Cong. 1st Sess.

16. 115 CONG. REC. 30054–56, 91st Cong. 1st Sess.

THE SPEAKER: The Chair will state that if the House fails to adjourn, a motion to that effect would be in order.

Legislative Signal Lights and Bells

§ 2.20 The Speaker announced to the House his directive that the House legislative electric bell and light signals be altered to distinguish between recorded votes in the House and quorum calls in the House or in Committee of the Whole.

On Jan. 21, 1970,⁽¹⁾ Speaker John W. McCormack, of Massachusetts, issued a directive that signal bells be used to distinguish between recorded votes and quorum calls:

THE SPEAKER: The Chair would like to make an announcement.

On January 3, 1969, the House adopted an amendment to rule XV, clause 1, that eliminated the necessity for Members to "qualify" on a yea-and-nay vote. Since that time several Members have asked the Chair if it would be possible to make a signal system distinction between a yea-and-nay vote—either a constitutional vote or a vote under clause 4, rule XV—and a call of the House.

The Chair has given careful consideration and study to the matter and

has reached the conclusion that the change would be of benefit to the Members. Accordingly, starting today, the Chair has directed that on all recorded votes the bells will be rung twice. On quorum calls, either in the House or in Committee of the Whole, the bells will be rung three times.

For the convenience of Members the Chair will insert in the Record at this point a revised schedule of the signal system:

HOUSE LEGISLATIVE ELECTRIC BELL AND LIGHT SIGNALS

Tellers: 1 ring and light on left.

Yeas and Nays (either when ordered by one-fifth of those present or under Rule XV, cl 4): 2 rings and lights on left.

Call of House; No quorum in Committee of the Whole: 3 rings and lights on left.

Adjournment: 4 rings and lights on left.

Recess: 5 rings and lights on left.

Civil Defense Warning: 6 rings and lights on left.

(The light on the far right—7—indicates that the House is in session.)

§ 2.21 In a statement preceding introduction of the electronic voting system, the Speaker announced a revised schedule of the electric bell and light signals, including a provision for quorum calls.

On Jan. 15, 1973,⁽²⁾ Speaker Carl Albert, of Oklahoma, announced a revised schedule of leg-

1. 116 CONG. REC. 612, 91st Cong. 2d Sess.

2. 119 CONG. REC. 1055-57, 93d Cong. 1st Sess.

islative electric bell and light signals.

The Chair has directed that the bell and light system be utilized in the following manner:

One bell indicates a teller vote, taken in accordance with clause 5, Rule I (Members indicate their preference by walking up the center aisle and [being] counted by Members who are named as tellers by the Chair. This is not a recorded vote).

Two bells indicate an electronically recorded vote, either demanded under the Constitution by one-fifth of those present (in the House) or by one-fifth of a quorum under clause 5, Rule I (either in the House or in Committee of the Whole). Two bells may also indicate a recorded vote under clause 5 Rule I whenever Members are to record their votes by depositing ballot cards in the "aye" or "no" boxes. *The two bells will be repeated five minutes after the first ring* to give Members a second notice of the vote in progress.

Two bells, a brief pause, followed by two bells indicates a yeas and nays vote taken under the provisions of Rule XV, clause 1, by a call of the roll. *The bells will be sounded again when the Clerk reaches the "R's" in the first call of the roll.*

Three bells indicate a quorum call, either by means of the electronic system (Rule XV, clauses 2 and 5) or by means of tellers (Rule XV, clause 2(b)). *The bells will be repeated five minutes after the first ring* to give Members a second notice of the quorum call in progress.

Four bells indicate an adjournment of the House.

Five bells indicate a recess of the House.

Six bells indicate a civil defense warning.

Parliamentarian's Note: The legislative call system was designed to alert Members to certain occurrences on the floor of the House. More recently, Speaker Thomas P. O'Neill, of Massachusetts, has directed that the bells and lights comprising the system be utilized as follows (125 CONG. REC. —, 96th Cong. 1st Sess., Jan. 23, 1979):

Tellers—one ring and one light on left.

Recorded vote, yeas and nays, or automatic rollcall vote taken either by electronic system or by use of tellers with ballot cards—two bells and two lights on left indicate a vote in House or in Committee of the Whole by which Members are recorded by name. Bells are repeated five minutes after the first ring.

Recorded vote, yeas and nays, or automatic rollcall electronic vote on recommitment to be immediately followed by possible five-minute vote on final passage (cl. 5, Rule XV)—two bells rung at beginning of motion to recommit, followed by five bells, indicate that Chair will order five-minute vote if recorded vote, yeas and nays or automatic vote is ordered immediately thereafter on final passage or adoption. Two bells repeated five minutes after first ring.

Recorded vote, yeas and nays, or automatic rollcall by call of the roll—two bells, followed by a brief pause, then two bells indicate such a vote taken under the provisions of Rule XV,

clause 1, by a call of the roll in the House. The bells are repeated when the Clerk reaches the "R's" in the first call of the roll.

Regular quorum call—three bells and three lights on left indicate a quorum call either in the House or in Committee of the Whole by electronic system or by clerks. The bells are repeated five minutes after the first ring. Where quorum call is by call of the roll, three bells followed by a brief pause, then three more bells, with the process repeated when the Clerk reaches the "R's" in the first call of the roll, are utilized.

Regular quorum call in Committee of the Whole, which will possibly be immediately followed by five-minute electronic recorded vote (cl. 2, Rule XXIII)—three bells rung at beginning of quorum call, followed by five bells, indicate that Chair will order five-minute vote if recorded vote is ordered on pending question. Three bells repeated five minutes after first ring.

Notice or short quorum call in Committee of the Whole—one long bell followed by three regular bells, and three lights on left, indicate that the Chair has exercised his discretion under cl. 2, Rule XXIII and will vacate proceedings when a quorum of the Committee appears. Bells are repeated every five minutes unless (a) the call is vacated by ringing of one long bell and extinguishing of three lights, or (b) the call is converted into a regular quorum call and three regular bells are rung.

Adjournment—four bells and four lights on left.

Any five-minute vote—five bells and five lights on left.

Postponed votes on (a) motions to suspend the rules (cl. 3, Rule XXVII);

(b) on "clustered" rules from Rules Committee (cl. 4(e), Rule XI); or (c) on "clustered" final votes on bills, resolutions or conference reports (cl. 5(b), Rule I)—two bells, followed by five bells, indicate start of fifteen-minute vote on first postponed question in each such series. Two bells repeated five minutes after first ring. Five bells on all subsequent five-minute votes in each series on which Speaker has reduced vote time.

Recess of the House six bells and six lights on left.

Civil Defense Warning—twelve bells, sounded at two-second intervals, with six lights illuminated.

Interpretation of "Vacating Proceedings" Under Rule XV Clause 4

§ 2.22 Where a quorum has failed to develop on an automatic roll call under Rule XV clause 4,⁽³⁾ and the House has adjourned, the provision in the rule that proceedings be "vacated" has been construed to mean the voiding of the proceedings incident to such call, and not to mean deletion of the proceedings from the Record and the Journal.

On Dec. 23, 1932,⁽⁴⁾ and Dec. 27, 1932,⁽⁵⁾ the interpretation of

3. *House Rules and Manual* §773 (1979).

4. 76 CONG. REC. 980, 981, 983, 984, 72d Cong. 2d Sess.

5. *Id.* at pp. 986, 987.

the word “vacate” Rule XV clause 4, and the effect of vacating proceedings for purposes of the Journal and Record were discussed.

The Journal of the proceedings of yesterday was read.

THE SPEAKER:⁽⁶⁾ Without objection, the Journal will stand approved.

MR. [CARL E.] MAPES [of Michigan]: Mr. Speaker, reserving the right to object, I would like to ask the Speaker if the Journal shows a record of the roll call on the motion to recommit when the point of no quorum was developed immediately before the adjournment of the House yesterday. The Record does not.

THE SPEAKER: The Journal does not show the roll call on the motion to recommit.

MR. MAPES: Then, Mr. Speaker, I desire to call the Speaker's attention and the attention of the House to the Journal and the Record and to ask for a correction of both.

Mr. Speaker, in this connection, I desire to say that in looking over the Record this morning I saw that the roll call was not in the Record, and I assumed that its omission was merely an oversight. .

MR. [WILLIAM B.] BANKHEAD [of Alabama]: I did not fully understand the gentleman's request. Does the gentleman propose to ask the Speaker to have the Journal corrected?

MR. MAPES: Yes; the Journal and the Record. As I was saying, when I noticed the omission of the roll call in the Record, I assumed the omission was an oversight, but a short time ago I took

occasion to call the Parliamentarian and was assured by him that its omission was not an oversight. . . .

I am told by the Parliamentarian that the basis for the omission is contained in the last sentence of Rule XV, subsection 4, which says that when a situation is developed such as was developed yesterday that all proceedings under this section shall be vacated. I will read the entire sentence:

At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated,

What the proper construction of the last clause in that sentence is may be open to some argument, but to me it is a violent construction of it to construe it to mean that an actual roll call in the House of Representatives shall not be recorded in the Journal. . . .

MR. BANKHEAD: Mr. Speaker, I would like to be heard briefly on the proposition. As the gentleman from Michigan has well said, this might be a matter of considerable importance because of the dignity of the Journal as showing the historical proceedings of the House of Representatives.

The gentleman from Michigan has well pointed out that the Constitution does provide that—

The House shall keep a Journal of its proceedings and from time to time publish the same except such parts as may in their judgment require secrecy.

But that provision of the Constitution does not directly or by implication go to the extent of saying that the

6. John N. Garner (Tex.).

House has not the right to control the interpretation and say what entries in the Journal, shall be made. The Manual, section 71, says:

The House controls its Journal and may decide what are proceedings, to the extent of omitting things actually done or recording things not done.

The rule that the gentleman from Michigan referred to a few minutes ago is not susceptible of any ambiguous construction. It is plain, simple, direct, and is mandatory in its provisions. An automatic roll call was had, a motion to adjourn, seconded by a majority of those present by actual count by the Speaker, and up to that point the requirements of the rule were actually complied with in all details; but the rule goes further, and this is the section which governs the proper construction of the situation by the Speaker:

And if the House adjourn—

Which it did do under the preceding sections—

all proceedings under this section shall be vacated. . . .

THE SPEAKER: The Chair is ready to make a statement, if not a ruling. During the last Congress the late Speaker Longworth, in a conversation with me, paid the Parliamentarian a very high compliment as to his philosophy and accuracy in trying to maintain the integrity of the rules of the House of Representatives. The result was that when I became Speaker I continued his services, and I have found him to be very capable.

This rule we are considering may be a bad rule; and if we were considering it originally, I am not certain that I

would support it, but that it is a part of the rules of the House of Representatives there can be no question.

The rule not only says that the proceedings shall all be vacated but is followed by other matter. The rule was adopted in 1896. It applies only to votes where a quorum is required; that is, the rule would vacate a vote if a quorum failed and the House adjourned. The rule, of course, does not apply to a motion to adjourn, since it does not require a quorum to agree to that motion. Now, to make the illustration: If the motion yesterday had been to adjourn, and no quorum developed on that motion, the vote would have appeared in the Journal; but it was not a motion to adjourn, it was a motion where a quorum was required, to wit, a motion to recommit the bill to the committee with instructions to report it back forthwith.

There was no legal action on that motion yesterday, and it seems to the Chair that under the circumstances the proceedings were void by reason of this language of the rule:

If the House adjourns, all proceedings under this section shall be vacated.

The Chair does not know what this language can mean unless it means that where a quorum failed on an automatic roll call and the House adjourned the entire proceedings relating to the call shall be vacated. What can it possibly mean other than to vacate the proceedings? And that, of course, includes the roll call.

The gentleman from Alabama called attention to the definition of "vacate" found in Webster's Dictionary. The Parliamentarian calls the Chair's at-

tention to the definition appearing in Bouvier's Law Dictionary, which is:

To render null and void; to vacate an entry which has been made on a record.

That is exactly what was done in this case.

The Chair repeats again, this may be a bad rule, and its philosophy may be wrong, but it is a rule of the House, and that the Parliamentarian has complied with the rules of the House there is no doubt in the Speaker's mind.

The Speaker wants it understood that he is not wedded to this conclusion, and it is a matter for the House to determine itself what construction it will place in this particular rule. The Chair has no pride in it whatever; and if it is the wish of the House to allow it to go over until next Tuesday so we can look into it and philosophize about it, the Chair would not be opposed to such action.

MR. [BERTRAND H.] SNELL [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. SNELL: If the Speaker says that the motion will be in order on next Tuesday, I am perfectly willing to give him such time to look into the matter further. I think it is important that this question should be decided right for all time, because it is very important in so far as the proceedings of the House are concerned.

THE SPEAKER: The Chair will recognize the gentleman from New York to make the motion now, if he desires to make it.

MR. SNELL: Mr. Speaker, perhaps it would be a good idea for me to make

the motion and have it pending. Would that be proper?

MR. BANKHEAD: Will the gentleman yield?

MR. SNELL: Yes.

MR. BANKHEAD: The question arises, I respectfully suggest, whether it would be in order to entertain that motion. In the absence of a quorum, officially shown on the record, there is a constitutional inhibition against any proceedings. I have no objection myself, of course.

MR. SNELL: This is a new legislative day, and there has been no development of a quorum and no one has raised the issue.

MR. BANKHEAD: I am in entire accord with the suggestion of the gentleman, but I do have serious doubt whether we could properly consider it in the absence of a quorum.

MR. SNELL: If the Chair is willing, I will make the motion with the understanding it will not be taken up to-day but will be pending.

THE SPEAKER: Let the Chair point out what the parliamentary situation would be next Tuesday. We have one motion pending at the present time as the unfinished business, to wit, the motion to recommit. If the gentleman makes a motion to correct the Journal, that would be the first business on Tuesday, as the Chair would interpret it.

MR. SNELL: I would expect so.

THE SPEAKER: Therefore, there would be pending on next Tuesday two propositions, one following the other: First, the approval of the Journal of yesterday's proceedings, and second, the motion to recommit the bill to the committee with instructions to report it back forthwith.

Let the Chair suggest to the gentleman from New York that we can adjourn, if the House desires, at the present time, and the Chair will recognize the gentleman from New York on next Tuesday to move to correct the Journal of the proceedings of yesterday.

ADJOURNMENT

MR. [HENRY T.] RAINEY [of Illinois]: Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes p.m.) the House adjourned to meet, in accordance with its previous order, on Tuesday, December 27, 1932, at 12 o'clock noon.

On Dec. 27, 1932,⁽⁷⁾ the following occurred immediately after the prayer:

CORRECTION OF THE JOURNAL OF THURSDAY, DECEMBER 22

MR. SNELL: Mr. Speaker, I ask unanimous consent to correct the Journal of Thursday, December 22, and also the permanent Record of that same day by inserting in the same a record of the proceedings on a roll call on the motion to recommit made by the gentleman from Illinois [Mr. De Priest] in connection with the Interior Department appropriation bill.

THE SPEAKER: The gentleman from New York asks unanimous consent that the Journal and the permanent Record of last Thursday's proceedings be corrected so as to include the roll call on the motion to recommit the Interior Department appropriation bill.

7. 76 CONG. REC. 986, 987, 72d Cong. 2d Sess.

MR. SNELL: And pending that I would like to make a brief statement. I want to say that I have found an exact precedent, entirely on all fours with the situation which arose in the House last Thursday.

These proceedings took place under another distinguished Democratic Speaker, the Hon. Champ Clark, and the Hon. Claude Kitchin as majority leader, and show that we were correct in the position that we took on this side of the House last Friday. Therefore I think they ought to go in the Record at this time in order to clear up any situation of a like nature that may arise in the future.

This situation arose on February 3, 1919. The gentleman from Rhode Island, Mr. O'Shaunessy, made a motion to suspend the rules and pass a bill that had to do with the salaries of the Federal judges in Rhode Island. After the motion and some debate I will read from the Record:

THE SPEAKER: The question is on suspending the rules and passing the bill.

The question was taken.

THE SPEAKER: In the opinion of the Chair two-thirds—

MR. WALSH: Mr. Speaker, I make the point of order that there is no quorum present.

THE SPEAKER: The gentleman from Massachusetts makes the point that there is no quorum present, and evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. The question is on suspending the rules and passing the bill.

The question was taken; and there were—yeas 113, nays 96, answered "present" 4, not voting 216.

Then the names of those voting "yea," those voting "nay," and those not voting appear in the Record.

MR. KITCHIN: I move that the House do now adjourn.

The motion was agreed to and the House adjourned.

Now, that is exactly on all fours with the situation in the House last week. I may say also that the Journal is the same as the Record, except that the names of the absentees are not recorded in the Journal. I think, Mr. Speaker, it is proper that this request should be granted, and I understand that my request is acquiesced in by the majority leader.

MR. RAINEY: Mr. Speaker, reserving the right to object, I think the Speaker's interpretation of the rule is absolutely correct. If the rule is not plain enough to carry out the suggestions of the Speaker, I think it ought to be made so. The rule may need some clarifying in the next Congress. I see no objection to publishing these names. I hope there will be no objection to the request of the gentleman from New York.

THE SPEAKER: Is there objection to the request of the gentleman from New York [Mr. Snell]?

There was no objection.

THE SPEAKER: The Chair asks unanimous consent of the House that the Speaker be permitted to extend his remarks concerning this question. Is there objection?

There was no objection.

THE SPEAKER: The Chair in ruling on this question on Friday last stated his views relative to the construction to be placed on the provisions of clause 4 of Rule XV. The Chair has since that time given additional thought to the question raised by the gentleman from Michigan [Mr. Mapes]. It seems to the

Chair that the language embodied in the last sentence of clause 4 of Rule XV, to wit, "If the House adjourns, all proceedings under this section shall be vacated," should not be disregarded. The present occupant of the chair endeavored to ascertain what that language could mean with respect to the rule now under consideration. The Chair believes that without the language, "And if the House adjourns, all proceedings under this section shall be vacated," the vote would have been void if a quorum failed on the vote. So that if the purpose of the language was merely to void the vote it was unnecessary. The Chair can not conceive of superfluous language being placed in any rule, and the Chair in this instance certainly does not think the above-quoted language is superfluous. Now, if the Chair is correct so far in his interpretation of the rule, the Chair will pursue the subject further. If the language is not necessary in order to void the vote where a quorum fails, then it must mean that the record of the proceedings is vacated and made of no effect, and consequently has no place in the Journal. In that connection the Chair may state that it has been the uniform practice in the past not to include in the Journal the proceedings whereby a certain action of the House has been vacated when the request to vacate occurs on the same day that the action sought to be vacated occurred. For instance, where the House passes a bill on a certain day and later on during the same day a Member requests that the proceedings whereby the bill has been engrossed, read a third time, and passed be vacated in order that an amendment may be placed in the bill, and such request is

granted and the amendment is then adopted, the bill engrossed and read a third time and passed, the Journal does not show the proceedings whereby the original action was vacated, but merely shows that the bill was considered, amended, engrossed, read a third time, and passed. In other words, the Journal shows the final action and not the incidental things that occur in consummating that action. The Chair thinks that that is an analogous case and that the same reasoning should apply in the question that has arisen.

The Chair in making this statement does not want it interpreted as meaning that he is in sympathy with the legal construction he has placed on the rule. The present occupant of the chair has always been in favor of giving the widest publicity to all the proceedings of government. The Chair wants it distinctly understood that he has ruled only on the legal aspects of the question. The Chair is not in sympathy with any rule that tends to make secret any governmental proceedings, but the Chair can not permit the merits of a particular rule to influence him in the legal construction of it. The Chair makes this statement merely to explain the reasons governing the Chair in the making of his ruling on last Friday. The House by agreeing to the request of the gentleman from New York [Mr. Snell] has indicated that its interpretation of the rule is such as to permit the publication of the proceedings in the Journal as well as the Record.

THE JOURNAL

THE SPEAKER: Without objection, the Journal of the proceedings of Thursday, December 22, 1932, will be approved.

There was no objection.

THE SPEAKER: The Clerk will read the Journal of Friday, December 23, 1932.

MR. MAPES: Mr. Speaker, before that is done may I rise to a parliamentary inquiry?

THE SPEAKER: Certainly. The gentleman will state it.

MR. MAPES: In connection with the proceedings relating to the correction of Thursday's Journal. Inasmuch as the unanimous consent of the minority leader has been agreed to, the Record of last Thursday will be corrected accordingly, but in view of the statement of the majority leader, it seems to me that the situation is left in a somewhat indefinite condition so far as the interpretation of the rule is concerned, and what the duty of the Journal clerk may be in similar cases arising in the future. I think it would be interesting to have the decision of the Speaker in respect to that. Suppose the same situation should develop to-day, for instance.

THE SPEAKER: The Chair would carry out the will of the House as expressed to-day in the proceedings.

MR. MAPES: That is, that the full proceedings would be incorporated in the Journal?

THE SPEAKER: Yes. If the same question arises again, the names will be included in the Journal and the Record.

§ 2.23 During a quorum call under Rule XV clause 2(a),⁽⁸⁾ the Speaker has no authority to entertain a unanimous-

8. See *House Rules and Manual* § 768 (1979).

consent request to vacate proceedings under the call.

On Oct. 18, 1972,⁽⁹⁾ during consideration of a conference report on S. 3939, the Federal-aid Highway Act, and the day on which the House adjourned *sine die*, Speaker Carl Albert, of Oklahoma, responded to a unanimous-consent request to vacate a call of the roll.

MR. [JOHN T.] MYERS [of Indiana]: Mr. Speaker, I make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count. One hundred twelve Members are present, not a quorum.

MR. [THOMAS P.] O'NEILL Jr. [of Massachusetts]: Mr. Speaker, I move a call of the House.

A call of the House was ordered.

MR. [WILBUR D.] MILLS of Arkansas: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MILLS of Arkansas: Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated.

THE SPEAKER: The Speaker does not have that authority under the Constitution.

If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does have that authority, but he does not know of any such Members.

9. 118 CONG. REC. 37199, 92d Cong. 2d Sess.

Automatic Call After Vacating Passage of Bill

§ 2.24 The House, having passed a bill by voice vote, vacated the proceedings by unanimous consent; the question on passage was again put and a quorum not being present, a roll call was automatic under Rule XV clause 4.⁽¹⁰⁾

On Oct. 5, 1962,⁽¹¹⁾ during consideration of S. 1447, to amend the Teachers' Salary Act for the District of Columbia, an automatic roll call was held.

THE SPEAKER:⁽¹²⁾ The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Speaker, I would like to inquire whether or not there are further conference reports or unanimous-consent requests to be considered this evening.

MR. [JOHN L.] McMILLAN [of South Carolina]: I have one more bill I desire to call up from the Committee on the District of Columbia.

10. *House Rules and Manual* §773 (1979).

11. 108 CONG. REC. 22649, 22650, 87th Cong. 2d Sess.

12. Sam Rayburn (Tex.).

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The bill has already passed.

MR. FULTON: Mr. Speaker, I was on my feet.

THE SPEAKER: The Chair will state that if a Member is on his feet, that is insufficient. The gentleman did not address the Chair.

MR. FULTON: I was saying "Mr. Speaker," and was not heard. I was on my feet.

THE SPEAKER: If the gentleman asks unanimous consent to vacate the action, the Chair will entertain a request. But the passage of the bill had been completed.

MR. FULTON: Mr. Speaker, I was on my feet addressing the Speaker, but I was not recognized.

THE SPEAKER: The Chair does not know what is in the gentleman's mind when the gentleman is on his feet.

MR. FULTON: I was saying "Mr. Speaker," right straight through. I am sure it is the custom of the House to be recognized when a point of order is being made.

THE SPEAKER: Without objection, the action whereby the bill was passed will be vacated.

There was no objection.

THE SPEAKER: The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

MR. FULTON: Mr. Speaker—

THE SPEAKER: For what purpose does the gentleman from Pennsylvania rise?

MR. FULTON: I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER: The Chair will count.

Does the gentleman insist upon his point of order?

MR. FULTON: Yes, Mr. Speaker.

THE SPEAKER: Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll

Senate Precedents

§ 2.25 The Presiding Officer of the Senate, as a Member of that body, may suggest the absence of a quorum.

On July 16, 1965,⁽¹³⁾ the authority of the Presiding Officer was discussed.

MR. [SPESSARD L.] HOLLAND [of Florida]: Mr. President, will the Senator yield?

MR. [WAYNE L.] MORSE [of Oregon]: I yield.

MR. HOLLAND: Is it not a fact, although not frequently practiced, that the Presiding Officer of the Senate, in the event of an emergency or for any reason satisfactory to himself, can suggest the absence of a quorum?

MR. MORSE: Yes; that is another procedure that may be followed. I am not critical because it was not followed. I am only pointing out, for precedential

13. 111 CONG. REC. 17103, 17104, 89th Cong. 1st Sess.

reference, that either procedure would have prevented the situation that developed.

MR. HOLLAND: Mr. President, will the Senator yield further?

MR. MORSE: I yield to the Senator from Florida.

MR. HOLLAND: I am not making my comments in criticism of anyone. I was in the Senate a long time before I knew that a Senator when acting as the Presiding Officer of the Senate could suggest the absence of a quorum. I wanted to bring that point into the debate so that it will be clearly apparent for all Senators who have the onerous duty of presiding at embarrassing times to themselves. That is a well settled rule, as I understand, and if the Presiding Officer and the Senator from Oregon will yield, I should like to address a parliamentary inquiry to have that point incorporated in the Record.

THE PRESIDING OFFICER:⁽¹⁴⁾ The Senator from Florida is correct.

MR. HOLLAND: Will the Chair restate that ruling?

THE PRESIDING OFFICER: The Presiding Officer, as a Member of the Senate, may suggest the absence of a quorum at an appropriate time.

MR. HOLLAND: I thank the Chair.

§ 2.26 When the Senate convenes following an adjournment taken in the absence of a quorum, the first order of business is the establishment of a quorum and the Presiding Officer directs the roll to be called.

14. Daniel K. Inouye (Hawaii).

On Sept. 23, 1968,⁽¹⁵⁾ a quorum was established.

CALL OF THE ROLL

THE PRESIDENT PRO TEMPORE,⁽¹⁾ The Senate having adjourned on Friday, September 20, 1968, in the absence of a quorum, the clerk will call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names. . . .

THE PRESIDING OFFICER:⁽²⁾ A quorum is not present.

MR. [MICHAEL J.] MANSFIELD [of Montana]: Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

THE PRESIDING OFFICER: The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

THE PRESIDING OFFICER: The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names: . . .

THE PRESIDING OFFICER: A quorum is present.

§ 2.27 The Senate having recessed in the absence of a quorum, the Vice President directed a quorum call when the Senate reconvened.

On July 28, 1962,⁽³⁾ Vice President Lyndon B. Johnson, of Texas,

15. 114 CONG. REC. 27814, 27815, 90th Cong. 2d Sess.

1. Carl Hayden (Ariz.).

2. Howard W. Cannon (Nev.).

3. 108 CONG. REC. 14952, 87th Cong. 2d Sess.

ordered a quorum call after the Senate reconvened following a recess.

The Senate met at 10 o'clock a.m., on the expiration of the recess, and was called to order by the Vice President. . . .

CALL OF THE ROLL

THE VICE PRESIDENT: The Senate having taken a recess last night in the absence of a quorum, no business can be transacted until a quorum is present.

The clerk will therefore call the roll for the purpose of developing a quorum.

The legislative clerk called the roll; and the following Senators answered to their names: . . .

§ 2.28 Where the Senate recesses over the weekend because of lack of a quorum, the Vice President at the next meeting of that body causes the roll to be called to secure a quorum.

On Mar. 7, 1938,⁽⁴⁾ Vice President John N. Garner, of Texas, commented on the procedure following a recess.

THE VICE PRESIDENT: The Chair has examined the Record and finds that when the Senate took a recess on Friday last no quorum was present. The Chair, therefore, thinks it is his duty to direct the clerk to call the roll for

4. 83 CONG. REC. 2903, 2904, 75th Cong. 3d Sess.

the purpose of securing a quorum, for the Senate begins now just where it left off last Friday.

The Chief Clerk called the roll, and the following Senators answered to their names: . . .

THE VICE PRESIDENT: Eighty-six Senators have answered to their names. A quorum is present.

§ 3. The Chair's Count; Names Included on Calls

Following the historic decision of Speaker Thomas B. Reed, of Maine, in 1890,⁽⁵⁾ the House adopted Rule XV clause 3,⁽⁶⁾ which provides that on the demand of any Member or at the suggestion of the Speaker, those Members present in the Hall of the House who do not vote may nevertheless be counted in determining the presence of a quorum; moreover, under Rule XV clause 4,⁽⁷⁾ the Speaker, in determining the presence of a quorum, is au-

5. Speaker Reed directed the Clerk to enter on the Journal as part of a ye and nay vote the names of Members who were present but did not vote, thereby establishing a quorum of record. 4 Hinds' Precedents §2895.

6. *House Rules and Manual* §772 (1979); see 4 Hinds' Precedents §2905 for a discussion of adoption of this clause.

7. *House Rules and Manual* §773 (1979). See also §3.9, *infra*.